

Legislative Fiscal Bureau

Fiscal Note

SF 2144 – OWI, Blood Alcohol Content Reduction (LSB 6706 SV)

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Fiscal Note Version – New

Requested by Senator Andrew McKean and Senator David Miller

Description

Senate File 2144 changes the limit for blood alcohol concentration while driving a motor vehicle from .10 percent to .08 percent. Under the Bill, a person who drives with a .08 blood alcohol concentration or higher would violate Section 321J.2, Code of Iowa, the operating while intoxicated (OWI) statute.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. There is a six-month lag time from the effective date (July 1, 2002) of the proposed legislation to the date of first entry of affected offenders into the correctional system.
4. Based on a four-state analysis by the National Highway Traffic Safety Administration (NHTSA), there will be a 4.0% increase in OWI convictions, and a 7.0% reduction in convictions for vehicular homicides and serious injury OWIs.
5. Average jail terms are based on the average jail term imposed for OWI violations.
6. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data. Prison admission data from the Adult Corrections Information System was also used.
7. The median cost per case for indigent defense for an OWI First is \$500, an OWI Second is \$1,000, an OWI Third is \$1,000, a Serious Injury OWI is \$1,000, and a Vehicular Homicide OWI is \$3,000. Approximately 50% of all OWI First offense convictions are indigent, while 100% of OWI Second and Third offense convictions are indigent.
8. The marginal cost per day for state prisons is \$16 per offender. The average length of stay for new admissions for an OWI Third conviction is 2 months, a Vehicular Homicide conviction is 87 months, and a Serious Injury OWI conviction is 25 months. The average length of stay for re-admissions for an OWI Third conviction is 11 months, a Vehicular Homicide conviction is 27 months, and a Serious Injury OWI conviction is 11 months.
9. The marginal cost per day for probation or parole is \$1.55 per offender. The average length for an OWI First is 11.8 months, an OWI Second is 12.3 months, and an OWI Third is 24 months.
10. The marginal cost per day for Community-Based Corrections (CBC) residential facilities is \$18 per offender, with an average length of stay of four to six months.
11. There are 1,404 CBC facility beds statewide. Of these, approximately 325 beds are dedicated to the OWI residential treatment program. On January 23, 2002, there were 252 OWI offenders in the facility-based OWI treatment program while 42 offenders were waiting to enter the facilities. These offenders may be under CBC supervision, or waiting in prison or jail. The facility-based OWI treatment program is operating at full capacity under current law.
12. It is assumed that OWI Second and OWI Third offenders will be required to attend substance abuse treatment, either at their own expense or through Iowa's substance

abuse managed care system. The average cost per client for substance abuse treatment is \$1,200.

13. The average cost for a jury trial for 1.5 days for an OWI Second, an OWI Third, a Serious Injury OWI, and a Vehicular Homicide OWI is \$390.
14. The average cost for an OWI First case ranges from \$70 to \$75 without a jury trial.
15. The average cost for an OWI Second case ranges from \$70 to \$75 without a jury trial, and \$460 to \$465 with a jury trial.
16. The average cost for an OWI Third case, Serious Injury OWI case, and Vehicular Homicide case is approximately \$200 without a jury trial, and \$600 with a jury trial.
17. Average length of stay in county jail for an OWI First is seven days.
18. Average length of stay in county jail for an OWI Second is 16 days.
19. Average length of stay in county jail for an OWI Third is 55 days.
20. The marginal cost per day for county jails is \$15 to \$25.

CORRECTIONAL IMPACT

During the first year, the proposed legislation will cause an additional 184 OWI First convictions (serious misdemeanor), 55 OWI Second convictions (aggravated misdemeanor), and 22 OWI Third convictions (Class D felony). During the second year (annualized impact), there will be 367 OWI First convictions, 109 OWI Second convictions, and 44 OWI Third convictions. Also during the second year, there will be one less Vehicular Homicide OWI conviction (Class B) and one less Serious Injury OWI conviction (Class D).

During FY 2003, there will be an additional 260 people convicted under the proposed legislation. These 260 convicted offenders will be sentenced as follows: 5 to prison, 13 to CBC facilities, 162 to probation, and 182 to jail. Certain offenders will receive a split sentence of jail and probation.

During FY 2004 (annualized impact), there will be 519 people convicted under the proposed legislation. These 519 convicted offenders will be sentenced as follows: 10 to prison, 24 to CBC facilities, 323 to probation, and 363 to jail. Certain offenders will receive a split sentence of jail and probation.

Admissions to the State prison will increase by five during FY 2003, and ten new admissions each year thereafter. The prison population will not change during FY 2003. It will decrease by two during 2004, and will decrease by three in FY 2007.

Admissions to CBC facilities will increase by 13 during FY 2003, and 24 new admissions each year thereafter. This will increase the number of offenders on waiting lists, which will increase the need for additional OWI treatment beds. Admissions to street supervision will increase by 162 during FY 2003, and 323 each year thereafter.

Admissions to county jails will increase by 182 during FY 2003, and 363 new admissions each year thereafter.

FISCAL IMPACT

The estimated fiscal impact of SF 2144 is expected to result in increased costs to the State General Fund and to local governments as follows:

State General Fund Impact

Total costs are estimated to be \$426,000 during FY 2003 and \$852,000 in FY 2004. The cost breakdown is as follows:

- State prison costs are estimated to increase by \$5,000 during FY 2003 and \$10,000 during FY 2004.
- CBC facility costs for the OWI treatment program are estimated to increase by \$35,000 during FY 2003 and \$65,000 during FY 2004. These estimates do not include construction of additional CBC beds, if required.
- Probation and parole costs are estimated to increase by \$145,000 during FY 2003 and \$300,000 during FY 2004.
- Court costs are estimated to increase by \$26,000 during FY 2003 and \$52,000 during FY 2004.
- Indigent defense costs are estimated to increase by \$123,000 during FY 2003 and \$241,000 during FY 2004.
- Substance abuse treatment costs are expected to increase by \$92,000 in FY 2003 and \$184,000 in 2004.

Local Government Impact

Local governments will experience increased costs for operating jails under SF 2144. Total statewide costs for local jails on an annual basis are estimated to be \$66,000 to \$111,000 more than current law. The breakdown is as follows:

- 253 additional admissions for OWI First convictions, with an average length of stay of 7 days = 1,771 additional jail days.
- 87 additional admissions for OWI Second convictions, with an average length of stay of 16 days = 1,392 additional jail days.
- 23 additional admissions for OWI Third convictions, with an average length of stay of 55 days = 1,265 additional jail days.

There is an annual increase in jail days of 4,428 that results in an increase of \$66,000 (4,428 x \$15.00) to \$111,000 (4,428 days x \$25.00).

Federal Funds Impact

If Iowa adopts the .08 blood alcohol concentration law by October 1, 2003 (Federal Fiscal Year (FFY) 2004), the State will continue to receive their annual portion of federal highway funds. That amount is currently \$235.0 million. If Iowa does not adopt the .08 blood alcohol concentration law by October 1, 2003 (FFY 2004), federal highway funds to Iowa will be withheld in the projected amounts listed below. The amounts are based on the existing level of funding of \$235.0 million. If Iowa adopts the .08 blood alcohol concentration law by September 30, 2007, however, any of the following funds previously withheld would be reimbursed:

Sanctions

- 2.0% (\$4.7 million) would be withheld on October 1, 2003 (FFY 2004 funds):
 - \$3.1 million from the State
 - \$1.6 million from cities and counties
- 4.0% (\$9.4 million) would be withheld on October 1, 2004 (FFY 2005 funds):
 - \$6.3 million from the State
 - \$3.1 million from cities and counties
- 6.0% (\$14.0 million) would be withheld on October 1, 2005 (FFY 2006 funds):
 - \$9.4 million from the State
 - \$4.6 million from cities and counties

8.0% (\$18.7 million) would be withheld on October 1, 2006 (FFY 2007 funds):

- \$12.5 million from the State
- \$6.2 million from cities and counties

Incentives

If Iowa adopts the .08 blood alcohol concentration law by October 1, 2002 (FFY 2003), Iowa would become eligible for an incentive grant in FFY 2003. Depending on the number of states with a .08 blood alcohol concentration law, on October 1, 2002, the Department of Transportation could receive between \$1.4 million and \$2.4 million. The money is restricted to highway-related projects, including safety programs, under 23 U.S.C. No State matching funds are required for the grant.

If Iowa does not adopt the .08 blood alcohol concentration law by October 1, 2002, the State is not eligible for the incentive grant. The incentive program sunsets on September 30, 2003, however, Congress could authorize additional years through reauthorization of the Transportation Equity Act of the 21st Century (TEA-21), which takes effect on October 1, 2003.

As of October 2001, 27 states, the District of Columbia, and Puerto Rico have adopted .08, and have received incentive grants. As of December 2001, eight states have introduced legislation to adopt .08. As more states become eligible for the grants, the amount received by each state decreases.

Sources

Department of Human Rights (CJJP)
Department of Transportation
Department of Corrections
Supreme Court
State Public Defender's Office

/s/ Dennis C Prouty

February 18, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.
